

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-49 are pending in this application. Claims 1, 7, 12, 18, 23, 29, 34, 39, 44, 46, 48, and 49 are amended. Since all elements of the claims were earlier claimed (in Claims 44 and 46, for example) or inherent in the claims as examined, no new issues are presented; thus, it is respectfully requested that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner. The amendments will further ensure that the claims are in better form for appeal. No new matter has been added.

The Final Office Action rejects Claims 1-11 and 34-49 under 35 U.S.C. § 103(a) as unpatentable over Honma (U.S. Patent no. 6,304,313) in view of Safai et al. (U.S. Patent no. 6,167,469, herein "Safai"); and rejects Claims 12-33 under 35 U.S.C. § 103(a) as unpatentable over Honma in view of Safai, and further in view of Fellagara et al. (U.S. Patent Publication no. 2001/0015760A1, herein "Fellagara").

Applicant and Applicant's representative wish to thank Examiner Pham and Primary Examiner Moore for the interview granted on August 9, 2004. During that interview, Claims 1 and 44 was discussed and compared with the asserted prior art. During the interview, the Examiners agreed that the asserted prior art does not disclose each and every feature recited in Claim 44, and indicated that the Examiners' search would be updated when the remarks provided during the interview are formally presented in a filed response. The remarks provided herewith are consistent with the remarks provided during the interview. It is noted, however, that no new search should be required as the subject matter of Claims 44 and 46 included the angle of photography detection in the document mode.

In regard to the rejection of Claims 1-11 and 34-49 under 35 U.S.C. § 103(a) as unpatentable over Honma (U.S. Patent no. 6,304,313) in view of Safai, Applicant respectfully traverse the rejection for the following reasons.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), each of three requirements must be demonstrated. First, Honma in view of Safai, when combined, must teach or suggest each and every element recited in the claims.¹ Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention.² Third, a reasonable probability of success must exist with respect to the proposed combination relied upon in the rejection.³

Claim 1, as amended, recites a digital camera having a normal photographing mode and a document photographing mode, said digital camera comprising, *inter alia*, an image pickup unit which captures an image of a subject and converts the image to image data and an angle of photography detection unit which detects the angle of photography with respect to a surface of a document as the subject in the document photographing mode and prevents capturing the image until a suitable angle of photography is detected.

The Final Office Action asserts that the perspective correction processor of Honma reads on the angle of photography detection unit of the present invention.⁴ Applicant disagrees. In Honma, "the binary image data stored in the image memory 107 is . . . subjected to perspective correction by a perspective correction processor 109."⁵ In other words, in Honma, the perspective correction processor performs perspective correction after capturing image. Nowhere does Honma teach or suggest an angle of photography detection unit which detects the angle of photography with respect to a surface of a document as the

¹ See MPEP § 2143.

² See *id.*

³ See *id.*

⁴ Office Action, page 5.

⁵ Col. 5, lines 38-40 of Honma.

subject in a document photographing mode and prevents image capture if the angle is not suitable, all as recited in Claim 1, as amended.

Safai does not cure the deficiencies of Honma in this regard. For example, even assuming Safai could properly be combinable with Honma, which Applicant disputes, Safai does not teach or suggest the angle of photography detection unit included in the subject matter of Claim 1, as amended.

Accordingly, Applicant submits that Claim 1 is patentable and the rejection of Claim 1 under 35 U.S.C. § 103(a) should be withdrawn. Independent Claims 7, 34, 39, 44, 46, 48, and 49, although of different statutory class and/or of different scope, include recitations similar to those discussed above in relation to Claim 1. Claims 2-6, 8-11, 35-38, 40-43, 45 and 47 depend from Claims 1, 7, 34, 39, 44, or 46. For at least the reasons given above with respect to Claim 1, Applicant respectfully requests that the rejection of Claims 2-11 and 34-49 under 35 U.S.C. § 103(a) be withdrawn as well.

In regard to the rejection of Claims 12-33 under 35 U.S.C. § 103(a) as unpatentable over Honma in view of Safai, and further in view of Fellagara, Applicant respectfully traverse the rejection for the following reasons.

Claim 12, as amended, recites a digital camera having a normal photographing mode and a document photographing mode, said digital camera comprising, *inter alia*, an angle of photography detection unit as noted above relative to Claim 1. Thus, Honma in view of Safai does not teach or suggest the above-mentioned angle of photography detection unit of Claim 12. Fellagara does not cure the deficiencies of Honma and Safai in this regard. For example, even assuming Fellagara could properly be combinable with Honma and Safai, which Applicant disputes, Fellagara does not teach or suggest an angle of photography detection unit as recited in Claim 12, as amended.

Accordingly, Applicant submits that Claim 12 is patentable and the rejection of Claim 12 under 35 U.S.C. § 103(a) should be withdrawn. Independent Claims 18, 23, and 29, although of different statutory class and/or of different scope, include recitations similar to those discussed above in relation to Claim 12. Claims 13-17, 19-22, 24-28, and 30-33 depend from Claims 12, 18, 23, or 29. For at least the reasons given above with respect to Claim 12, Applicant respectfully requests that the rejection of Claims 13-33 under 35 U.S.C. § 103(a) be withdrawn as well.

In view of the foregoing remarks, Applicants respectfully submit that each and every one of Claims 1-49 defines patentable subject matter, and that the application is in condition for allowance. Applicants respectfully request reconsideration and reexamination of this application and timely allowance of the pending claims.

Respectfully submitted,

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